IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 6407 of 2005
Date of decision : 18.1.2007

M/s Parker Industries, Jalandhar.

.....Petitioner.

Versus

Joint Director General of Foreign Trade & Anr.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE M. M. KUMAR
HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Jagmohan Bansal, Advocate for the petitioner.

Mrs. Daya Chaudhary, Assistant Solicitor General of India.

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M. M. KUMAR, J.(ORAL)

On 23.11.2006 this Court after noticing the contention raised by the parties has passed the following detailed order:

"*Learned counsel for the petitioner submits that penalty of Rs. 33 lacs has been imposed under the provisions of the Foreign Exchange Regulation Act, 1973 and penalty of Rs. 32 lacs has been imposed under the provisions of Customs Act, 1962. He further submits that no penalty is attracted under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 as DEPB is not a license within the meaning of Clause 2(g) of the Act though DEPB is issued under the provisions of EXIM policy framed under the 1992 Act. Alternatively, it was submitted by the learned counsel for the petitioner that penalty of Rs. 65 lacs having already been imposed under different provisions, for alleged evasion of duty*

of Rs. 32 lacs, ought to have been taken into account for imposing any further penalty under the 1992 Act.

On being questioned, learned counsel for the petitioner states that so far no amount of penalty has been recovered from the petitioner. Learned counsel for the petitioner prays for time to take instructions from his client whether he is in a position and willing to pay the penalty already imposed or part thereof, which conduct may be taken into account while considering the validity of impugned order of imposition of penalty.

Adjourned to 18.1.2007."

At the resumed hearing today, learned counsel for the petitioner candidly stated that the petitioner is unable to deposit the amount of penalty or any part thereof. The conduct of the petitioner lacks bona fide and, therefore, he is not entitled to be heard on merit. The writ petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

18.1.2007. **(VINOD K. SHARMA)**
'sp' **JUDGE**